

## **Statement by Chairman Gary Gensler on Speculative Position Limits and Enhanced Transparency Initiatives**

**July 7, 2009**

The Commodity Futures Trading Commission is directed by statute and provided with broad authorities to ensure the fair, open and efficient functioning of futures markets. In my first week as the Chairman of the CFTC, I instructed Commission staff to present all available regulatory options to carry out our duties and fulfill our mission. My firm belief is that we must aggressively use all existing authorities to ensure market integrity.

Today, I am announcing that the Commission will be conducting a series of hearings during the months of July and August. This effort will seek input from the public --- consumers, businesses and market participants --- to determine how the agency should use all of its existing authorities to accomplish its mission.

Our first hearing will focus on whether federal speculative limits should be set by the CFTC to all commodities of finite supply, in particular energy commodities, such as crude oil, heating oil, natural gas, gasoline and other energy products. This will include a careful review of the appropriateness of exemptions from these limits for various types of market participants.

### **Aggregate Position Limits and Review of Hedge Exemptions for Energy Futures Markets**

The Commodity Exchange Act states that the CFTC shall impose limits on trading and positions as necessary to eliminate, diminish or prevent the undue burdens on interstate commerce that may result from excessive speculation. The CFTC currently sets and ensures adherence to position limits with respect to certain agriculture products. This is not the case for energy markets. For energy commodities, futures exchanges set position limits and accountability levels to protect against manipulation and congestion. The exchanges are not required to set and enforce position limits to prevent the burdens of excessive speculation.

This different regulatory approach to position limits for agriculture and other physically delivered commodities deserves thoughtful review. It is incumbent upon the CFTC to ensure a fair and transparent price discovery process for all commodities. The Commission will be seeking views on applying position limits consistently across all markets and participants, including index traders and managers of Exchange Traded Funds (ETFs); whether such limits would enhance market integrity and efficiency; whether the CFTC needs additional authority to fully accomplish these goals; and, how the Commission should determine appropriate levels for each market.

While the Commodity Exchange Act provides for exemptions from such limits for “bona fide hedging transactions or positions”, the CFTC is currently reviewing the manner in which this exemption has been implemented. Recently, the Commission completed a comment period on whether the bona fide hedge exemption should continue to apply to persons using the futures markets to hedge purely financial risks rather than risks arising from the actual use of a commodity. In addition to the comments received, these hearings will further inform the rulemaking process for the Commission on this issue.

## **Improving Market Transparency**

Secondly, I would like to take this opportunity to announce improvements in the transparency of market data that the Commission will be implementing in the near term. Specifically, we will be making enhancements to our weekly Commitments of Traders (COT) report. In addition, the Commission, through our special call authority, will continue to collect and report data from swaps dealers and index investors.

For decades, the Commission has issued COT reports to the public each Friday. These reports have included the aggregated positions of Noncommercial and Commercial traders and have been an important tool for market participants and the public to track the changing positions and investments of important groups of market participants. Enhancing the quality of information in these weekly reports will better inform market participants and the public about the positions of the various types of traders.

I have directed staff to improve our COT reports in four ways. First, we will disaggregate the current Commercial category separating out and categorizing swaps dealers. Second, we will disaggregate the current Noncommercial category by separating out and categorizing the professionally managed market positions, such as hedge funds. Third, we will incorporate data the CFTC receives for all foreign contracts linked to domestic contracts. Fourth, we will incorporate data of contracts determined to perform a significant price discovery function.

Last September, the CFTC published a Report on Swap Dealers and Index Traders based upon our special call authority. The Commission will continue this special call, enhance the information disseminated in this report and release it on a quarterly basis [with a goal of moving it to monthly in the near term].

I look forward to this upcoming process and improving our regulation of futures markets on behalf of the American public.